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ABSTRACT

The paper examines policy options for schools regarding appropriate services for children with highly communicable, potentially life threatening diseases such as Acquired Immune Deficiency Syndrome (AIDS) and Herpes. Briefly considered are the school's legal responsibility, implied risk and inability, and actual risk and its control. General recommendations for management of all infectious diseases are offered. Specific recommendations are given for control of AIDS transmission, Hepatitis-B transmission, Herpes transmission, and Cytamegalovirus transmission. Also discussed are the public relations aspects of infectious disease in the public schools, and cost considerations, especially legal costs and liability insurance. It is concluded that the greatest risk at the present time is the potential for legal action on the part of school employees and parents of susceptible children. Schools are encouraged to implement procedures and face the associated risks in the interest of assuring each child's right to an education. (DB)

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INFECTIOUS DISEASE AND THE PUBLIC SCHOOLS

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INFECTIOUS DISEASE AND THE PUBLIC SCHOOLS

Managing the control of highly communicable, potentially life-threatening diseases has recently emerged as a major right-to-education issue facing the nation's schools. According to precedents now being established through litigation and echoed in several state and municipal guidelines, the traditional practice of excluding children with potentially dangerous communicable illnesses from school is no longer tenable. Schools must now admit these children and must take steps to prevent the spread of infection to other children and staff.

Pathology and Communicability

Two diseases appear to be at the core of the issue; the Acquired Immune Deficiency Syndrome (AIDS), and Herpes. AIDS breaks down the body's immune system, leaving the victim susceptible to deadly infections and cancers. It is principally transmitted sexually through semen and blood, but the virus may also be present in vomitus, feces and other body fluids. The highly treatment-resistant Herpes virus is primarily a venereal concern, but it may appear as sores anywhere on the body of infected individuals. It is transmitted only through contact with the sores when they are

present. The sores usually appear in cycles of weeks or months; there is no risk of infection at other times. Symptoms are usually limited to itching and lesions in adults, but the disease can cause severe brain damage or death in very young infants.

According to Elaine Brainerd, Health Consultant with the Connecticut State Department of Education, other diseases such as Hepatitis-B and Cytomegalovirus (CMV) may become of equal concern to school systems. Hepatitis-B, which affects the liver, is shed in the urine, feces and possibly the saliva of carriers. It is particularly likely to be present among previously institutionalized persons and Indo-Chinese refugees. CMV causes congenital deformities and defects. It may be present in the urine or saliva of infected children up to about the age of three years.

School Responsibility

The responsibility for provisions of educational services to infected children rests with the public schools as established by Section 504 of the Vocational Rehabilitation Amendments of 1973, and in the Education for All Handicapped Children Act of 1975, as amended. Accordingly, these children may not be denied public educational services, and if they are deemed handicapped, they must be provided a free, appropriate public education in the least restrictive environment.

Policies which heretofore permitted exclusion of such children from school must be considered null by virtue of the primacy of Federal law. Schools must not only admit infected children but must take steps to prevent the risk of the spread of infection by employing some means of assessing the risk of transmission of the disease and establishing control measures to minimize such risk.

Implied Risk and Liability

Whenever infected children are present in school buildings, regardless of the precautions taken, school officials must be prepared to deal with the element of implied risk, i.e., that other children and school personnel may become infected. This theoretical and prospective risk may give rise to various forms of "discovered" liability such as noncompliance with extant state or local health standards, violation of working-conditions provisions in employee contracts or loss or reduction of health insurance coverage purchased by the school. The school's liability insurance may not provide protection against related legal action against the school or damages resulting from an actual case of disease transmissions.

Actual Risk and Its Control

The actual risk of disease transmission, in general, appears

quite low. The prevailing medical opinion has been that the control of transmission in school environments can be accomplished through the application of appropriate hygiene, sanitation and environmental control procedures. Courts have interpreted such expert testimony as a necessary and sufficient condition to warrant the imposition of procedures upon school personnel who admit infected children. Any school preparing to admit such children should seek competent medical advice in support of the establishment of such procedures. The following outline can be taken as representative of the types of procedures likely to be recommended. (Adapted from reports issued by the Center for Disease Control, The New York City Department of Health, and the Connecticut State Department of Education.)

General Recommendations

-- As a general rule, an infected child should be allowed to attend school in a regular class setting with the approval of the child's physician.

-- The school nurse should function as (a) the liaison with the child's physician, (b) the child's advocate within the school, and (c) the coordinator of risk management procedures within the school building.

-- The school must protect the privacy of the child and his/her family; therefore, knowledge that a child is infected should be confined to persons with a direct need to know. Those persons should be provided with appropriate information concerning necessary precautions and should be made aware of confidentiality requirements.

-- Based upon individual considerations, including the need for extraordinary risk control measures, placement of the infected child in a special program may be warranted. Special education and/or related services should be provided if determined to be necessary under applicable eligibility and placement rules.

-- Infected children should be assumed to present a high risk of disease transmission if:

-- he/she lacks toilet training or is otherwise incontinent,

-- he/she has open sores that cannot be concealed and/or

-- he/she demonstrates behaviors (e.g., biting, touching) which could result in direct innoculation or other contact with the virus.

-- If a child is assessed to present a high risk of disease transmission, the school medical advisor, in consultation with the school nurse, the child's physician, and the parents, may recommend removal of the child from the classroom setting until such time as the risk has abated.

-- During the time that a child is suspended from the classroom, an appropriate adjustment of or alternative to the child's education program should be provided. If the nature of the risk requires removal of the child from the school facilities, the child should be placed in homebound instruction pending medical assurance that the risk has abated. These cases should be medically reviewed at least monthly.

Control of AIDS Transmission

-- An AIDS child may, upon medical advice, need to be removed from the classroom or school facilities for his/her protection when cases of measles or chicken pox are occurring in the school population.

-- Routine procedures should be used to clean up after an AIDS child has had an accident or injury at school. Blood, vomit, feces, urine, and other body fluids emanating from any child, including those known to have AIDS, should be treated with caution. Gloves should be worn when cleaning up such spills, using a bleach solution of one cup per gallon of water. This solution should be prepared daily, or each time it is used. Persons coming in contact with the fluids should wash their hands immediately. Fluid soiled items should be placed in leak-proof bags for washing or disposal.

Controlling Hepatitis-B Transmissions

Hygiene and sanitation procedures recommended for control of Hepatitis-B transmission are similar to those for AIDS. In addition:

-- Pupils and staff in high-risk situations should be screened for Hepatitis-B carriage and immunity, and, where appropriate, encouraged to obtain (or be provided with) Hepatitis-B vacine.

-- Carriers should be prohibited from oral contact with other persons (e.g., fingers, mouths, kissing, biting).

-- Mouth-to-mouth sharing of food and other objects (e.g., pencils, toys) should be prohibited.

-- Use of personal toiletry items (e.g., towels, tooth brushes) and sharp objects which may cause cuts should be closely supervised and sharing should be prohibited.

-- Staff members who are pregnant must not be assigned to work with carriers. Risk of transmission to the fetus appears to be highest in the final three weeks of pregnancy.

-- Food handlers who are carriers should be educated about Hepatitis-B transmission and supervised concerning personal hygiene and avoidance of hand injuries.

-- Environmental surfaces (e.g., floors, door knobs, counter tops, desks, etc.) should be frequently cleaned with disinfectants.

Controlling Herpes Transmission

Herpes virus is spread through contact with sores. When sores are present, hygiene, sanitation and environmental control measures as recommended above should be observed. In addition:

-- Some reliable means of detecting the presence of sores should be employed such as regular inspection by the parent or school nurse. In some cases, it has been recommended that all children in the classroom or school building be inspected.

-- When sores are present, an effective means of preventing direct contact must be instituted such as the use of non-permeable clothing or coverups.

-- In situations where control may be particulary difficult to maintain (e.g., on school buses, during playground activities, in gym classes) appropriate alternatives to those situations should be instituted.

-- When contact with the sores cannot be effectively prevented, the infected child should be isolated within the school setting or, if necessary, provided with homebound instruction.

-- Since Herpes infections may be critical in very young infants, personnel who are pregnant or mothers of infants, as well as others who may be in contact with such persons and/or infants, should be informed about Herpes transmission.

Controlling CMV Transmission

At the time of this writing, guidelines concerning exposure to CMV in school settings were not yet available from the Center for Disease Control. Congenital disease resulting from *in utero* transmission of the virus to the fetus by mothers with first-time CMV infection is thought to constitute the greatest risk. Women who are pregnant or likely to become pregnant and others who may be in contact with such persons, must be protected in those settings (e.g., "Birth to Three" projects) where infected infants are likely to shed the virus. Pending availability of more definitive guidelines, it can be assumed that risk management should include applicable hygienic, sanitation and environmental control procedures as outlined above. In addition, schools should consider:

-- Screening of enrolled infants and children to identify CMV shedders. This should be supervised by an immunologist as there may be problems concerning the sensitivity of available tests.

-- Providing information to potentially at-risk employees concerning CMV transmission.

-- Encouraging (or making available) routine serologic tests for potentially at-risk women to determine their susceptibility to the CMV virus.

Public Relations

The element of actual risk can be effectively controlled by means of safeguards such as those outlined above, however, this fact may be difficult to communicate to employees,

parents and the general public. Parent groups and teachers organizations, for example, have been very active in opposing admission of infected children to schools. Indeed, it might be expected that public reactions in general would tend toward the negative. This expectancy exists, in part, because the public generally is poorly informed about the diseases and their control, and publicity so far has been largely of the sensational genre. School officials might well assume that human factors such as fear and lack of knowledge may cause their greatest difficulty in regard to providing educational services for infected children. Local school officials should perhaps consider the advisability of a public education program in cooperation with public health authorities and other community leadership, and the news media. This would appear particularly important in the larger urban centers and in regions where there are concentrations of mainstreamed previously institutionalized persons, Indo-Chinese refugees, homosexuals, drug users, and other groups known to present high positive epidemiology of the various diseases. Information and guidelines should soon be available from most state education and/or health agencies to assist schools in carrying out such campaigns.

Cost Considerations

The fiscal impact of providing educational services to infected children is difficult to predict. It can be expected that the incidence of infected children will be quite low in

regard to the disease categories discussed above. Homebound instruction, alternative transportation and other special educational and related services, medical services (e.g., consultation, screening, inoculations, etc.), and increased demands upon the time of professional and administrative personnel may represent significant excess costs for some schools. Recent history suggests the likelihood of hearings or litigation concerning admission and placement of infected children in schools; the prospect of associated legal costs should not be overlooked. Some of the program costs may be offset by state and federal special education funds or other program monies, depending upon the availability of such funds and the eligibility of the targeted children. School officials expecting to admit an infected child should contact their state education agency for guidance in this regard. Public Health Programs (e.g., WIC, MCH, EPSDT, etc.) may in some cases provide direct assistance to help defray the costs of medical support services. Similarly, third-party sources such as public and private insurance carriers may cover a portion of related medical costs. Schools anticipating the enrollment of infected children should seek guidance from their state education agencies in regard to public health services, as many states now have interagency agreements which may speak to relevant services and/or cost sharing. In the case of private third-party sources, only a few states have statutes or agreements which apply, thus fiscal relief is best sought through voluntary agreements on the part of the third-party beneficiaries. In anticipation of possible legal

costs, school officials should not neglect to review their errors and omissions policies and other liability coverages to determine the extent of their protection in regard to issues of implied risk and damages resulting from the spread of infection.

Providing educational services to children who are carriers of Acquired Immune Deficiency Syndrome (AIDS), Herpes, Hepatitis-B or Cytomegalovirus (CMV) should not prove an unmanageable task. In most cases, admissions and placement procedures would not be functionally different from those already in place by virtue of the school's special education and school health programs. Most of the hygiene, sanitation and environmental control procedures do not differ from those recommended in generally accepted standards applicable to all school children. Responsibility for screening and such immunizations as are necessary may be assumable by public health agencies. Programmatically, liability does exist for the schools in regard to the protection of disease-susceptible children and employees--particularly women of child-bearing age. In the legal sense, this is largely a matter of properly informing, training and supervising employees. Perhaps the greater risk at the present time is the potential for legal action on the part of school employees and parents of susceptible children. In most states, guidelines and other information which should offset this risk will soon be available. All parties will benefit when schools prepare to implement procedures and face the associated risks in the interest of assuring each child's right to an education.